

REMARKS

Claims 1-20 are pending in this application all of which stand rejected. Claims 1-20 have all been rejected under on the ground of nonstatutory obviousness-type double patenting as being upatentable over claims 1-54 of U.S. Patent No. 6,519,639. Claims 1-20 have also been rejected under section 102(e) as being anticipated by U.S. Patent No. 6,301,609 (Aravamudan). Following entry of the amendment, claims 1, 4, 8, 14, and 17 will have been amended, and claims 11-13 will have been canceled without prejudice or disclaimer of the subject matter thereof.

Based on the remarks below, applicants submit that this case is now in condition for allowance.

Double Patenting Rejection

Applicants note the Examiner's assertion that certain claims in the present application are "not patentably distinct" from certain claims in U.S. Patent No. 6,519,639. Although applicants do not acquiesce in the Examiner's position, in the interest of furthering prosecution, applicants are filing with this paper a terminal disclaimer of this application over U.S. Patent No. 6,519,639. The terminal disclaimer overcomes the double patenting rejection, and applicants request that the non-statutory double patenting rejection be withdrawn.

Section 102 Rejection

The independent claims (1, 4, 8, 14, and 17) have each been amended to more particularly point out the invention, thereby rendering the rejections moot. For the reasons set forth below, the independent claims, as amended, define over the applied art.

Claim 1, for example, now recites "~~when~~ whenever user activity is detected during the time interval, wherein the activity message indicates user activity having occurred during the time interval". (Underlining and strikethrough show the additions and deletions.) In particular, claim 1, as amended, calls for sending an activity message whenever user activity is detected during the time interval and that the activity message indicates user activity having occurred within that time interval. This feature is in contrast to Aravamudan, where an

activity message is sent only if activity is detected *and* the previous activity/inactivity state had been inactive. Since claim 1 calls for sending the activity message whenever activity occurs during the time interval, an activity message is sent even if activity had previously been detected and notified in the previous interval. This is in contract to Aravamudan, which would not send an activity message if activity had already been detected and an active state had been set – regardless of whether activity had been detected within some subsequent “interval.”

The applied portion of Aravamudan states as follows,

FIG. 6 is a flow diagram of an exemplary method utilized to communicate to the Communication Services Platform (CSP) a user's inactivity while utilizing a client premises equipment (CPE) device registered as online, in accordance with the principles of the present invention. This feature may also be implemented in the client CPE software and is utilized to determine when the user is inactive for a predetermined period of time, and therefore possibly away from a CPE device which is registered as online. In step 260, the CPE device continuously monitors for user interaction with a user interface of the CPE device and relays changes in state with the server. Interaction with a CPE device may be detected via several alternative methods, such as detecting when a user is actively typing on a keyboard, or via a motion detector associated with a mobile device. If interaction with a user interface of the CPE device is sensed, and the previous state was inactive, then the CPE device generates an active message and conveys the active message to the CSP via the Instant Message (IM) server, in accordance with step 262. If no interaction with a user interface is sensed during an activity monitor check, then in accordance with step 264, the time from last activity (T) is compared to a specified inactivity time limit (LIMIT). If time T is less than or equal to LIMIT, no immediate action is taken and the activity

monitor continues to monitor for user interaction with a user interface, in accordance with step 260. If, however, time T becomes greater than LIMIT, then in accordance with step 266 the CPE device generates an inactivity message and conveys the inactivity message to the CSP via the IM server. Upon receiving the inactivity message, the CSP updates its database to indicate that the user is inactive. Column 7, line 41-Column 8, line 4.

In other words, Aravamudan shows an active message being generated if user interaction is sensed during an activity monitor check *and* the previous state was inactive. Additionally, Aravamudan shows a LIMIT, such that, if the time T from the last activity is greater than the LIMIT, an inactivity message is generated.

Merely generating an active message if user interaction is sensed during an activity monitor check *and* the previous state was inactive does not anticipate sending an activity message whenever user activity is detected during the time interval. For example, an activity message may not be sent in Aravamudan if the previous state was active and during an activity monitor check activity was detected. Thus, in Aravamudan, an activity message is never generated if activity is continually detected without the state ever having become inactive. Also, for example, an activity monitor check may occur randomly and not during a time interval. Instead, Aravamudan uses the time interval to send an inactive message. For example, Aravamundan states, "if, however, time T becomes greater than LIMIT, then in accordance with step 266 the CPE device generates an inactivity message." Thus, Aravamudan does not anticipate sending an activity message if user activity is detected during the time interval and that the activity message indicates user activity having occurred within that time interval.

Accordingly, applicants submit that claim 1, as amended, patentably defines over the references as applied.

Independent claims 4, 8, 14, and 17 are not identical to claim 1 in language, scope, or substance. However, applicants note that these claims recite related features, which define over the references as applied for reasons similar to those described above.

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Finally, applicants note that, with the independent claims having been shown to be patentable over Aravamudan, the dependent claims are also patentable over Aravamudan at least by reason of their dependency.

For the foregoing reasons, applicants submit that the claims define over the art as applied, and request that the section 102(e) rejection be reconsidered and withdrawn. Moreover, the independent claims having been shown to be patentable, the dependent claims are patentable at least by reason of dependency.

No New Matter

The amendments to claims 1, 4, 8, 14, and 17 do not add new matter, and are supported at least by paragraphs 27-29 and 38.

Conclusion

Applicants respectfully submits that all grounds for rejection have been addressed, and this case is now in condition for allowance.

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